



The ONCIX damage assessment remains in draft, however, no substantive changes are anticipated. The Government will keep apprised of any changes to the damage assessment and notify both the Court and the Defense of any substantive change to it.

The Government has advised the Court that nothing redacted will be used by the Government during any portion of the trial.

The ONCIX Damage Assessment, as redacted, meets the Government's discovery obligations under *Brady* and RCM 701(a)(6) to disclose evidence tending to reasonably negate the guilt of the accused to an offense charged, reduce the degree of guilt to an offense charged, or reduce the punishment. The ONCIX Damage Assessment, as redacted, also provides the Defense with evidence that is material to the preparation of the defense and relevant and necessary for production IAW MRE 703(f).

The redacted ONCIX Damage Assessment is disclosed to the Defense almost in its entirety. The redacted information not disclosed to the Defense is not favorable, material to the preparation of the defense, or relevant and necessary for production under RCM 703(f). The Government is ordered that no portion of the ONCIX Damage Assessment not disclosed to the Defense will be used by the Government or any Government witness during any portion of the trial. This includes rebuttal and rule of completeness if Defense introduces or references anything in the substitution.

The substitution is sufficient for the Defense to adequately prepare for trial and represents an appropriate balance between the right of the Defense to discovery and the protection of specifically identified national security information.

**RULING:** The Classified motions by the Government to voluntarily provide limited disclosure under MRE 505(g)(2) for the ONCIX Damage Assessment is **GRANTED**.

**ORDERED** this 23<sup>rd</sup> day of August 2012.



DENISE R. LIND  
COL, JA  
Chief Judge, 1<sup>st</sup> Judicial Circuit